IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

OWEN HARTY, individually, Plaintiff vs. ROSEMONT SQUARE ASSOCIATES, L.P., a Pennsylvania limited partnership, Defendant	: : : : : : : :	Case No. 2:16-cv-01004- ER

DEFENDANT ROSEMONT SQUARE ASSOCIATES, L.P.'S
ANSWER AND DEFENSES TO PLAINTIFF'S COMPLAINT

Defendant, ROSEMONT SQUARE ASSOCIATES, L.P., a Pennsylvania limited partnership, answers and asserts the following defenses to the Complaint of Plaintiff, OWEN HARTY, and says:

1. After reasonable investigation within the time allowed, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof, if relevant, will be demanded at trial of the issue.

2. Admitted.

3. Admitted.

4. The averments of this paragraph contain conclusions of law to which no response is required. To the extent that any averment is deemed factual it is denied.

5. Denied. After reasonable investigation within the time allowed, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof, if relevant, will be demanded at trial of the issue. To the extent that any averment is deemed factual it is denied.

6. Denied. After reasonable investigation within the time allowed, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments

contained in this paragraph, and strict proof thereof, if relevant, will be demanded at trial of the issue. To the extent that any averment is deemed factual it is denied.

7. Denied as stated. The averments of this paragraph contain conclusions of law to which no response is required. It is admitted that Defendant owns the Property referenced in the Complaint, portions of which are leased to various third parties. To the extent that any of the remaining allegations are deemed factual, they are denied and strict proof thereof, if relevant, will be demanded at trial of the issue.

8. Denied. The averments of this paragraph contain conclusions of law to which no response is required. By way of further answer, after reasonable investigation within the time allowed, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph, and strict proof thereof, if relevant, will be demanded at trial of the issue. To the extent that any averment is deemed factual it is denied.

9. Denied. The averments of this paragraph contain conclusions of law to which no response is required. To the extent that any averment is deemed factual it is denied.

10. Denied. The averments of this paragraph, including its subparts, contain conclusions of law to which no response is required. To the extent that any averments in this paragraph, or its subparts, are deemed factual, they are denied.

11. Denied. After reasonable investigation within the time allowed, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof, if relevant, will be demanded at trial of the issue. To the extent that any averment is deemed factual it is denied.

12. Denied. The averments of this paragraph contain conclusions of law to which no response is required. To the extent that any averment is deemed factual it is denied, and strict proof thereof, if relevant, will be demanded at trial of the issue.

13. Denied. The averments of this paragraph contain conclusions of law to which no response is required. To the extent a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof, if relevant, will be demanded at trial of the issue. To the extent that any averment is deemed factual it is denied.

14. Denied. The averments of this paragraph contain conclusions of law to which no response is required. To the extent that any averment is deemed factual it is denied.

15. Denied. The averments of this paragraph contain conclusions of law to which no response is required. To the extent a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof, if relevant, will be demanded at trial of the issue. To the extent that any averment is deemed factual it is denied.

16. Denied. The averments of this paragraph contain conclusions of law to which no response is required. To the extent that any averment is deemed factual it is denied.

WHEREFORE, Defendant demands judgment in its favor and against Plaintiff, and such other relief as this Court may deem appropriate.

GENERAL DENIAL

17. Defendant denies each and every allegation and prayer of the Complaint not specifically admitted above.

ATTORNEY'S FEES

18. Defendant has retained the law firm of Petrikin, Wellman, Damico, Brown & Petrosa, P.C. and has agreed to pay reasonable fees for legal services. Pursuant to 28 U.S.C. § 1927 and 42 U.S.C. § 12205, Defendant is entitled to recover its attorney's fees and costs.

FIRST DEFENSE

19. Plaintiff does not have standing to bring this action, and therefore, the Complaint should be dismissed.

SECOND DEFENSE

31. Plaintiff has demanded modifications that would result in significant loss of sale and/or serving space and, therefore, such modifications are not readily achievable.

THIRD DEFENSE

32. Plaintiff has demanded modifications to a facility that are not readily achievable, structurally impracticable, technically infeasible, or are not required.

FOURTH DEFENSE

33. Plaintiff has demanded modifications to a facility that would either create an undue hardship on Defendant, or that would threaten the health and safety of Plaintiff or others.

FIFTH DEFENSE

34. Plaintiff's causes of action, claims, or items of damage did not accrue within the time prescribed by law for them before this action was brought.

SIXTH DEFENSE

35. Plaintiff has demanded modifications that would require Defendant to fundamentally alter the way it provides its goods and services or would result in an undue burden.

SEVENTH DEFENSE

36. The Complaint fails to state a cause of action upon which relief may be granted.

EIGHTH DEFENSE

37. To the extent any architectural barriers exists, they are merely technical violations within acceptable conventional building industry tolerances for field conditions and the facility, when taken as a whole, is compliant with the ADA and its implementing regulations.

NINTH DEFENSE

38. To the extent the Complaint seeks relief for any area that is the responsibility of another, an indispensable party defendant has not been joined in this action because the allegations of the Complaint show that the purported violations may include facilities that are the responsibility of another and it has not been joined in this action.

TENTH DEFENSE

39. To the extent some or all of the claims or issues relate to property that is owned, operated or leased by another party, Defendant is not liable for compliance on property which it does not own, operate or lease.

ELEVENTH DEFENSE

40. To the extent any architectural barriers exist, they have already been remedied and/or removed and the issues are now moot and the facility is compliant with the ADA and its implementing regulations.

WHEREFORE, Defendant demands judgment in its favor and against Plaintiff, and such other relief as this Court may deem appropriate.

PETRIKIN, WELLMAN, DAMICO,
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By: /s/ Charles G. Miller
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